

April 3, 2008

Roland G. Vigeant
22 Primrose Drive
Riverside, Rhode Island 02915

Re: Tiverton Zoning Board Relief; Map 7-10, Block/Plat 45, Card/Lot 24

Dear Mr. Vigeant:

The following is the decision on your Petition heard by the Zoning Board of Review (the "Board") on April 2, 2008 for a request for a variance from Article V, Section 1 and for a special use permit pursuant to Article VII, Section 4.b. of the Tiverton Zoning Ordinance (the "Zoning Ordinance") to erect a new residential structure with a new septic system on property located at Ocean View Avenue, Tiverton, Rhode Island, at Map 7-10, Block/Plat 45, Card/Lot 24 (the "Premises") with less than required front yard setback from the property line and higher than is allowed in an R30 district.

After the testimony was completed at the public hearing for which due notice was given and a record kept, and after having viewed the premises and the surrounding area, the Board, taking into consideration its knowledge and expertise and all of the testimony and evidence entered into the record at the public hearing, makes the following findings:

1. That the Premises contains approximately 5,946 square feet of land area, more or less, and is zoned R30 residential.
2. The Premises is a vacant lot located at the end of Ocean View Avenue. The petitioner testified that he wished to erect a new single family residential structure that is located closer to the front property line and higher than is permitted in an R-30 district and to install an advanced septic treatment system which has been approved by the RI Department of Environmental Management. The proposal requires a variance from Article V, Section 1 and for a special use permit pursuant to Article VII, Section 4.b. of the Zoning Ordinance.
3. The petitioner testified that the proposal would meet current neighborhood development conditions, would be in keeping with the development in the surrounding area, would not negatively impact any nearby property owners and that due to the slope of the property that the proposed height of the dwelling was the least relief necessary.
4. The petitioner presented evidence to show that the Premises had been owned separately and was not subject to the merger provisions of the Zoning Ordinance. The petitioner also presented a registered professional engineer who was recognized by the Board as an expert in civil engineering and who testified that the public drainage system was adequate and sufficient to handle the increased runoff from the Premises and that given the location of the septic system the house could not be located anywhere else on the Premises and comply with the front yard setback requirement.
5. Several objections were raised to the proposal. The primary concerns expressed by the objectors involved drainage and view related issues.
6. The Board concurred with the factual statements and opinions of the petitioner and his experts, whose information, analysis and conclusions were found credible and are made a part of the record.

Based on the foregoing and after deliberations on the application, the Board voted four in favor and one abstention to grant the application for the necessary variance, as follows:

- a. Special conditions and circumstances exist which are special and peculiar to the land or structure involved, and which are not applicable to other lands or structures in the same zoning district, and are not due to a physical or economic disability of the petitioners.

- b. Issuance of the requested relief will not be contrary to the public interest, and that, owing to special or peculiar site or structural conditions, literal enforcement of the provisions of this ordinance would result in an unnecessary hardship on the petitioners.
- c. The unnecessary hardship, which the petitioners seek to avoid, has not been imposed by any prior action of the petitioners and is not based purely for monetary gain or loss.
- d. The granting of the requested variance will not alter the general character of the surrounding area or impair the intent or purpose of the zoning ordinance or the comprehensive plan upon which the ordinance is based.
- e. Relief from the provisions of this ordinance is the least relief necessary to remove the unnecessary hardship.
- f. That nonconforming use of neighboring lands, structures or buildings in the same district, and permitted use of lands, structures or buildings in an adjacent district did not form the grounds for the application of this variance request.
- g. That the hardship that will be suffered by the petitioners of the subject property if the dimensional variance is not granted amounts to more than a mere inconvenience.

As to the special use permit, after deliberations the Board voted four in favor and one abstention to approve the petitioner's application for a special use permit, as follows:

- (1) The public convenience and welfare will be served by allowing the establishment of the use on the Premises.
- (2) The proposed use will not be detrimental to the public health, safety, morals or welfare.
- (3) The proposed use will be compatible with neighboring uses and will not adversely affect the general character of the area.
- (4) The proposed use will not create a nuisance in the neighborhood, and will not hinder or endanger vehicular or pedestrian movement.
- (5) The requested use is compatible with the comprehensive community plan of the Town of Tiverton.

This petition is granted by the Board with the following stipulations and conditions:

- 1. That this decision must be recorded in the Land Evidence Records in the Town Clerk's Office before a building permit/certificate of occupancy is issued. (Please note that the appeal period (20 days) begins when said decision is recorded and posted with the Town Clerk's Office).
- 2. That the relief is limited to the plans and representations made by the petitioners to the Board. Changes to the approved plan may be made without approval of the Zoning Board of Review if needed to comply with either the building or fire codes.
- 3. No blasting to occur related to the construction of the dwelling or septic system on the Premises.
- 4. That this grant shall be activated with a building permit/certificate of occupancy, within one (1) year, unless extended by the Board, or it shall become void.

Present this letter to the Building Inspector when applying for the necessary permits.

Very truly yours,

David Collins, Chairman
Tiverton Zoning Board of Review

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